

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: Senate Bill 554

COMMITTEE: Environmental Matters

POSITION: Support

TITLE: Bay Restoration Act of 2009

BILL ANALYSIS: This Bill will prohibit a person from installing or replacing an on-site sewage disposal system in the Critical Area of Maryland unless that system utilizes the best available technology (BAT) for nitrogen removal. MDE would be required to use the Bay Restoration fund (BRF) to assist homeowners with these costs consistent with current law for the BRF, if sufficient funds are available. Also, the cost difference between a conventional on-site sewage disposal system and a system with BAT in excess of the amount of assistance provided from the BRF may be subtracted from the resident's federal adjusted gross income to determine Maryland adjusted gross income. Any person found in violation of this requirement is subject to a fine not exceeding \$8,000.

POSITION AND RATIONALE: MDE supports SB 554. The Chesapeake Bay Program estimates that approximately 7 % percent of the nitrogen load to the Chesapeake Bay from Maryland comes from on-site sewage disposal systems (septic) systems. In the effort to accelerate Bay restoration, reducing the nitrogen load from septic systems is critical. Maryland's Chesapeake Bay Tributary Strategy Implementation Plan would require nutrient removal technology to be in place for all existing, new and replacement systems in order for Maryland to meet its nutrient reduction goals for the Bay.

In 2008, approximately 2000 new and 2000 replacement septic systems were installed in Maryland. State-wide, the new systems result in a nitrogen loading increase of 24,000 pounds per year. Once the economy recovers, MDE expects the number of new systems to increase to as much as 6,500 per year, representing a nitrogen loading increase of 78,000 pounds per year.

MDE has estimated that in 2008 approximately 12% of the State-wide total, or 240 new and 240 replacement systems were located in the Critical

Area. In future years, the number of replacement systems is expected to remain fairly stable, however, when the economy recovers, new systems in the Critical Area can be expected to increase to historic levels, estimated to be up to 780 per year. If this legislation were to be approved, the installation of BAT on all new and replacement systems in the Critical Area would result in a nitrogen loading reduction of between 5,760 and 12,240 pounds per year. This means that with this legislation, the increase in loading to the Bay due to new septic systems would be reduced by about 15% to 24%, depending on the number of new systems installed.

Through moneys provided by the BRF, MDE administers a grant program that can pay the owner's cost of upgrading an onsite sewage disposal system with best available technology (BAT) to remove nitrogen. Revenue in the BRF for this purpose results from the \$30 annual fee levied by Counties on septic system owners. The revenue from this fund is sufficient to upgrade approximately 625 systems per year based on current costs. This legislation would require 240 replacement and between 240 to 780 new BAT systems in the Critical Area, a total of between 480 to 1,020 BAT systems.

The BRF requires that priority be given to failing systems located in the Critical Area. In 2008 there were approximately 240 replacement (failing) systems constructed in the Critical Area. Other failing systems that MDE determines to be a threat to public health or water quality are second priority (1,760 in 2008). All other systems, including new construction are third priority. Based on the current allocation of funding, it is not likely that enough funding would be available in the BRF to upgrade all new systems in the Critical Area.

FOR MORE INFORMATION,
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